IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9229 OF 2005

Rama Shankar Waghe ..Petitioner

versus

Smt. Aruna D. Waghe & Ors. ..Respondents

Mr. M. A. Choudhari for the Petitioner.

Mr. V. Talkute for the Respondent No.1

CORAM : D. G. DESHPANDE, J.

DATE : 22ND FEBRUARY, 2007

P.C. :

1. Heard Advocate for the Petitioner and the Respondent No.1.

2. Petitioner who was the original defendant No.1 has challenged by this petition the order of the lower court by which his application to set aside the order of striking the defence was rejected. Suit was filed for partition by his daughter in law after the demise of her husband who was the son of the petitioner. The order of maintenance of Rs.400/- per month came to be passed

in favour of the plaintiff - respondent No.1. Maintenance was payable from 25.11.2002. Not a farthing was paid upto 18.3.2005. Therefore, the defence was struck off. Application thereafter filed by the petitioner to set aside that order was rejected, hence, this petition.

3. From the plaint, it is clear that the dispute is in respect of more than 20 acres of land, even then the petitioner could not pay and did not pay Rs.400/- per month towards maintenance from the date of the order i.e. 25.11.2002 till 18.3.2005. This is nothing but a deliberate attempt to deprive the widow - daughter in law of her right to claim maintenance and avoid implementation of the order of the court. No case is made out for interference. Defence was rightly struck off. No merit in this petition, hence petition is dismissed.

(D.G. DESHPANDE, J.)